

Laurent, David

From: Disher, Todd
Sent: Wednesday, October 28, 2020 10:45 AM
To: Nina Perales; Samantha Serna
Cc: Biggs, Adam
Subject: RE: DACA - Motion to compel

Nina,

We cannot agree to that change. You are free to argue about what Arkansas did or didn't provide. Any such argument would be irrelevant to the Court's analysis, as we did not include any of the Arkansas information generated in response to your discovery requests in our motion for summary judgment. We are not going to take line edits on a witness's sworn declaration. We will file a response in opposition to your motion today.

Todd

Todd Lawrence Disher

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From: Nina Perales <nperales@MALDEF.org>
Sent: Tuesday, October 27, 2020 11:16 PM
To: Disher, Todd <Todd.Disher@oag.texas.gov>; Samantha Serna <sserna@MALDEF.org>
Cc: Biggs, Adam <Adam.Biggs@oag.texas.gov>
Subject: Re: DACA - Motion to compel

Dear Todd,

Thank you very much for your email. We will agree to withdraw the motion to compel if the declaration you attached does not include this language: "beyond what Arkansas has already provided in this case."

It is our position that Arkansas has not provided evidence of specific state expenditures on DACA recipients and the discovery dispute is related to this claim by Arkansas.

Nevertheless, we believe the discovery dispute would be resolved if you provide a declaration from Ms. Franklin with the current wording you propose minus "beyond what Arkansas has already provided in this case."

Thank you,

Nina Perales
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From: Disher, Todd <Todd.Disher@oag.texas.gov>
Sent: Tuesday, October 27, 2020 12:54 PM
To: Nina Perales; Samantha Serna
Cc: Biggs, Adam
Subject: RE: DACA - Motion to compel

Nina,

In response to your request below, we have attached an additional declaration from Arkansas explaining the difficulty of providing a specific dollar amount of state Medicaid money spent on DACA recipients in Arkansas.

As I have previously explained, Plaintiff States are not going to rely on specific “evidence of Arkansas Medicaid expenditures on DACA recipients” as stated in your motion to compel or, in the alternative, to strike. DACA recipients are eligible to receive some Medicaid services, and Plaintiff States incur some cost to provide those services. But Plaintiff States are not going to introduce any of the Arkansas-specific information produced in response to Intervenor’s discovery requests. You have now reviewed Plaintiff States’ motion for summary judgment and know that to be true.

Again, I will ask once more that you pull down your motion to compel, or in the alternative, to strike, as there is no such evidence to strike. Please do so by 11:00 a.m. tomorrow, as tomorrow is our deadline to respond.

Regards,

Todd

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From: Nina Perales <nperales@MALDEF.org>
Sent: Tuesday, October 20, 2020 10:23 AM
To: Disher, Todd <Todd.Disher@oag.texas.gov>
Subject: RE: DACA - Motion to compel

Thanks for the update, I appreciate it.

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From: Disher, Todd <Todd.Disher@oag.texas.gov>
Sent: Tuesday, October 20, 2020 10:21 AM
To: Nina Perales <nperales@MALDEF.org>; Biggs, Adam <Adam.Biggs@oag.texas.gov>; Samantha Serna <sserna@MALDEF.org>
Subject: RE: DACA - Motion to compel

Nina,

We should be able to work something out. Arkansas is discussing potential language now.

Todd

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From: Disher, Todd
Sent: Tuesday, October 13, 2020 3:34 PM
To: Nina Perales <nperales@MALDEF.org>; Biggs, Adam <Adam.Biggs@oag.texas.gov>; Samantha Serna <sserna@MALDEF.org>
Subject: RE: DACA - Motion to compel

Thank you for your email, Nina. I will discuss your request with counsel for Arkansas.

Todd

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From: Nina Perales <nperales@MALDEF.org>
Sent: Tuesday, October 13, 2020 3:17 PM
To: Disher, Todd <Todd.Disher@oag.texas.gov>; Biggs, Adam <Adam.Biggs@oag.texas.gov>; Samantha Serna <sserna@MALDEF.org>
Subject: DACA - Motion to compel

Dear Todd,

This is a follow-up to our conversation last week regarding Perez Defendant-Intervenors' motion to compel.

As you know, Perez Defendant-Intervenors seek information related to the claim by Arkansas that it expends state Medicaid funds on DACA recipients.

We understand that Plaintiffs did not specifically mention Arkansas expenditures in the motion for summary judgment. However, this is still an issue in the case. We believe that if we withdraw the motion to compel and no longer seek this information, and if the parties end up litigating it later in the case, we will have lost the opportunity to take this discovery.

However, we were able to reach an agreement on a related discovery dispute last year and propose something similar here. Perez Defendant-Intervenors are willing to withdraw their motion to compel if Plaintiffs can provide a declaration, similar to the ones attached, explaining that Arkansas is unable to identify the specific dollar amount of state Medicaid expenditures on individuals who were DACA recipients at the time they received the health services.

Please let me know your thoughts, thanks.

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